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TAGS: [PHUM](#) [PGOV](#) [SOCI](#) [KCUL](#) [CH](#)
SUBJECT: NPC PREPARES TO ENDORSE PROPERTY RIGHTS LAW,
DEFLECTS HARDLINE CRITICISM

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Classified By: Political Internal Unit Chief Susan
Thornton. Reasons 1.4 (b/d).

Summary

[1](#)1. (C) The revised version of China's oft-delayed and highly controversial "Property Rights Law," currently under discussion at the annual National People's Congress (NPC), contains new language designed to defuse criticism that the party is abandoning socialist principles. However, it also takes a historic step forward in China's market reforms by prescribing "equal protection" for private property. The draft devotes significantly more attention than earlier drafts to protection of state-owned assets and unauthorized seizures of "collective" property, but contains a strong endorsement for raising the legal status of private property. Jiangsu Party Secretary Li Yuanchao told the Ambassador that the law will limit the flexibility of local leaders to take property and land for public projects (see septel).
Comment: Party leaders have concluded that the law will facilitate further market reforms and have steered a careful course between providing cover against charges from hardline critics and deflecting pressure from party liberals for more extensive legitimization of private property. End Summary and Comment.

NPC "Explanation" Indicates Law Will Pass

[1](#)2. (U) Politburo member and NPC Vice Chairman Wang Zhaoguo read an "explanation" of the draft law to deputies at the second plenary session of the NPC on March 8 (ref A). Wang said the law had gone through an "unprecedented" six readings by the NPC Standing Committee over the past decade and would be further revised at the NPC session before being put to a vote. He claimed that after an earlier draft was published in July 2005, the Standing Committee received over 10,000 comments and suggestions from citizens and subsequently conducted a number of opinion surveys among different groups to make the current revisions. The current draft has not been made public and was not distributed to press and diplomatic observers at the session, but according to Wang, it was given to deputies on January 12. He said the new draft consisted of 247 articles, an increase of 49 over the previous version.

Defusing "Leftist" Criticism

¶3. (U) Originally slated to be presented to the NPC at last year's annual session, the bill was scuttled after a barrage of scathing public criticism led by Beijing University Marxist legal scholar Gong Xiantian accusing party leaders of violating China's constitution, facilitating a rapid sell-off of state-owned assets, exacerbating the growing gap between the rich and poor, legitimizing the ill-gotten gains of corrupt officials, and laying the basis for a "capitalist state" (ref D). As recently as December of last year, Gong posted another "open letter" on the Internet with many signatures in an effort to derail the bill at this year's NPC and the latest issue of the influential and provocative finance magazine Caijing was apparently pulled because of an article on the law. A China Daily reporter told Poloff that her contacts at Caijing said the staff was very surprised by the party's action, assuming that because the bill was under discussion at the NPC it was safe territory.

¶4. (U) The current draft, as cited by Wang in his explanation, adds sections reasserting the centrality of the state-owned sector in China's "socialist market economy" and spells out measures to prevent or punish the loss of state-owned assets including "illegal possession or sharing, looting, withholding or destruction" of state property. He said the state would continue to "solidify and develop" the public sector while "encouraging, supporting, and guiding" the development of the non-public sector and that the law contained "comparatively more provisions on ownership by the State."

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¶5. (U) The law also contains new provisions addressing the problem of illegal seizure of farm land and other rural property and urban residents' housing and mandating adequate compensation for property that is legally acquired by the state. It allows farmers to promptly renew long-term land contracts when they expire and, in what appears to be another effort to deflect criticism and portray the party as committed to strong measures to stop expropriation of land and housing, stipulates that adequate compensation goes beyond the market value of the land to include maintenance of farmers and urban dwellers "standard of living." One legal contact pointed out, however, that the language does not appear to be legally binding and that the reference is more symbolic than practical in the legal sense.

Historic Status for Private Property

¶6. (U) Despite this formal nod to the ideological issues raised by orthodox critics, Wang signaled that the Hu Jintao leadership has signed off on a higher legal status for private property and will ensue that the Property Law will be adopted by this session of the NPC. Noting that "private property has been increasing with each passing day," Wu stated that providing greater protection is "what the Party stands for" and meets "the urgent demands of the people." In an implicit jab at hardline critics, he said the PRC constitution "clearly stipulates that a citizen's lawful private property is inviolable" and that a "clear-cut definition of property and fair competition" constitute "the basic requirements for developing the socialist market economy."

¶7. (U) Wang cited provisions of the law stipulating that the state would protect the rights of citizens to "private property and its inheritance," including

"articles for daily use, means of production and raw materials, and lawful deposits and investments the gains derived from them." He singled out for special attention private housing, noting that since "more and more urban residents now own their own houses," "condominium rights" are important along with the "lawful rights and interests of building owners." To deflect criticism that the law would legitimize ill-gotten gains from corruption, the draft added language that only "lawfully acquired" property is subject to equal protection.

Li Yuanchao Says Law of Historic Importance

18. (C) At a dinner hosted by the Ambassador on March 8 (see septel), Jiangsu Party Secretary Li Yuanchao described the draft law as "of historic importance" and said he is certain it will pass. He said he supports the law because it enhances citizens' rights, but said it will pose considerable challenges for Jiangsu, especially because it will limit the provincial government's flexibility in how it manages land resources. Local authorities will now have to secure the consent of residents before taking property for public purposes.

Media Spin, Internet Chatter

19. (U) Netizen comments to date are generally supportive, but also mirror the ideological divisions in the debate over the law in the past year-and-a-half. Netizens from both orthodox and liberal perspectives writing on Xinhua's website, expressed hope that the law would primarily protect the interests of common people. One questioned whether the "equal protection" principle really represents "socialism," while another wondered "what will happen when there is a conflict between (public and private) interests" and a third said "those who have property and property rights are paying very close attention, but what changes will the law bring to the little people?" Writing from a the more liberal end of the political spectrum on the BBS of People Daily's website, a CPPCC member warned against using "Cultural Revolution" labels like "socialist and capitalist," while a People's University professor praised the effort to bring legal reform into sync with economic development to protect the "fruits of creative labor" spawned by reform. Another netizen on Xinhua's

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website thought the draft was "an outstanding piece of legislation" that shows the government "cares about protecting the rights of common people and considers their opinions."

Comment

110. (C) The draft law is consistent with strong recent assertions by Party leaders, including Premier Wen Jiabao just prior to the NPC, that continued market reform and economic development is their top priority. Top leaders most likely have calculated that they have changed the draft enough to provide adequate political cover against charges from hardline ideologues and the political interests they represent that the Party is abandoning socialist ideals, on the one hand, and to mollify pressures from the more liberal wing of the Party that the Party is not moving fast enough to provide the legal basis for further market reforms, on the other.

RANDT